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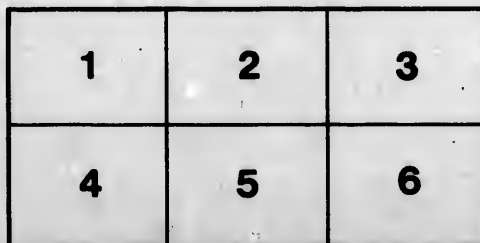
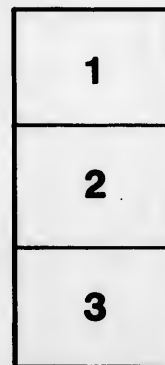
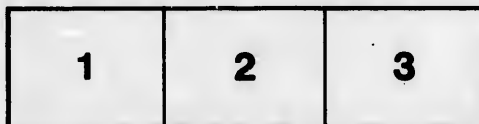
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T H O U G H T S

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A C T

**For making more Effectual Provision for
the Government of the Province
of QUEBEC.**

L O N D O N :

**Printed for T. BECKET, Corner of the Adelphi,
in the Strand. MDCCLXXIV.**

REPORT

1890

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THOUGHTS

ON THE

QUEBEC ACT.

THE cession of Canada and its dependencies, to Great Britain by the last treaty of peace, was so valuable an acquisition, that its prosperity and welfare must ever be an object of importance to this kingdom; the advantages gained by it were no less extensive to our commerce, than it was a permanent security to the tranquility of our colonies, by fixing the limits of our western dominions in that part of the globe, and thereby preventing any future dispute or controversy of right arising between the two nations; which was the original cause of the last

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war.

war. The treaty of Utrecht had fully settled the extent of our northern colonies, but the western limits of those on the southern continent, was unhappily left to the decision of the sword on a future day, which, fortunately for the peace of our dominions in that part of the world, was decided in our favour. The security of our colonies was not the only advantage acquired; the monopoly of the fur and peltry trade was gained by it, and the extent of our fishery greatly enlarged, as well as a most extensive territory, of near 1200 miles in length, and about 400 in breadth, which was ceded to us by that treaty. The establishing of a settled form of government in so great a dominion, must undoubtedly be an object of attention, and much more so when we consider the increased population in those parts within these few years; in fixing upon which, there are some particular points to be attended to, which ought to be considered as the funda-

fundamental principles of a government, intended to be given to a conquered kingdom. First, To adopt a government suitable to the *genius* of the people ; Secondly, One that does not violate a treaty of peace, and thereby lessen the faith of the nation, and leave open a just clause to invade the tranquillity of the kingdom in future ; Thirdly, One that can be executed with the fewest inconveniences, and be supported with the least expence. How far the present bill is likely to effect these ends, I shall examine, and consider the objections pleaded against it, and prove that they are founded upon false and erroneous principles ; which I should be happy if I could think they arose from an inconsiderate attention to the subject, and the intention of the bill, than an uniform, consistent plan of conduct, which characterises the opposers of it.

The general objections are,

That it has not an assembly.

That it takes away the trial by juries
in civil cases,

That it is a free toleration of the ca-
tholic religion.

That the jurisdiction will extend over
other colonies.

That it will prejudice our fishery.

That it is establishing an arbitrary go-
vernment, instead of giving one on
the principles of our constitution.

To consider whether the government
intended to be given them is suitable to
the genius of the people, we must take
a view of the inhabitants, their customs,
manners, and dispositions; and from a
mature consideration of those, deduce
the principles we mean to establish the
government upon.

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The Canadians form the greatest number of inhabitants of those dominions, by the vast difference of near 400 to one; the generality of these people are of amiable dispositions, tractable, and easily governed; and having been long used to the French laws, they have had a rule of conduct for their actions that they have learned from their infancy, and which by the diligent and impartial administration of the French governors, and the particular policy of the French in forming the constitution of their colonies, were perfectly happy.—Now the end of all government being to promote the happiness of the people, tho' through different means—the laws the Canadians were under, perfectly answered the end of the institution; the people were happy, they had justice to the merit of their cause, and they flourished even under the continual drainings of a long war. When we consider this vast tract of land, inhabited by a people unambitious, fond of peace, industrious,

duftrious, and clearful in their fituation, and happy under a government not perplexed with the vague forms of fome intitutions, (and which overload our conftitution, and retards the procefs of our laws) but founded on the moft fimple principles of policy, we fhould proceed with the utmoft caution in making any alteration; a thorough knowledge of human nature is required in the investigation, humanity muft guide the cautious hand of power, or inftead of promoting the happinefs of the people, we deftroy the principles upon which their felicity depends: any innovation on their eftablifhed customs and general rule of conduct will perplex them, and create fearful ideas of oppreffion, and caufe them to speculate on things that they are intirely unacquainted with, and likely awaken a fpirit of difcontent and faction, and annihilate that peace and tranquility, that the primitive government, and their thorough knowledge of the laws of it, and the

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willingness of obedience in their dispositions insures to them. The opposers of this bill are much in favour of establishing of an assembly: such a measure, which is as inconsistent as it is almost impracticable, when considered on equitable principles, would be the very means of creating murmur, and throwing the inhabitants into the utmost perplexity. Unused to political speculations, they are scarcely acquainted with the idea of one, much less can they relish being governed by a power they are ignorant of: as also the inequality of the protestant settlers to the catholic, would render an assembly chosen by them exceedingly unjust. Popular assemblies are subject to many inconveniences, and England experiences in the constitution of her other colonies how ill adapted they are to preserve the order and peace of government; much more so would they be in a colony where the ideas of legislation are so limited, that the consequences of giving them an assembly
would

would be so contrary to the form of government that they have always been under, that those who are well acquainted with the disposition of the Canadians say, it would be rejected with the utmost ill humour and discontent, and be considered as an oppressive institution. The next point to be attended to, is the consequences that would result to this kingdom as well as the colony from instituting of an assembly. Quitting the idea how ill suited such an institution is to the disposition of the inhabitants, I shall reflect on the consequences that might be expected would result from adopting such a measure. It first would occasion a meeting of men who most likely would by no means be qualified to give laws to so numerous a body, or be able to consult about the political affairs of the province; being chiefly planters and traders, the self ruling principle of human nature, would be the constant guide of their actions, and on that *principle alone* such an idea ought to be rejected;

rejected; and as it would not only take off their attention from their business, and thereby occasion a neglect of the true interest of the colony, but would fill their minds with chimerical ideas of importance, and idle speculations, greatly to the disadvantage of the order and peace of the province: that in time Canada would be as over-run with patriots as Boston.

The northern colonies would have experienced a much greater degree of felicity, had their government consisted only of a governor and council, with a board of trade, and other inferior officers and magistrates to enforce the police of the kingdom, instead of their assemblies, where the most important affairs of the state are cavilled in a manner that would disgrace the most illiterate assembly, and the dignity of government and magistracy excited to ridicule under the mask of patriotism, and the public manners debauched under the puritanical mask of a

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religious

religious zeal: these are the evils that we experience; consequences that we have before our eyes, of the danger of too freely admitting popular assemblies, and the riots and disorder they cause by their ungoverned and unrestrained power; and which when permitted to pass unheeded, become undaunted to the greatest degree, and almost ungovernable without the disagreeable exertion of a military power. If these evils, of which we have proofs, arise in a colony which is said to arrive to some degree of civility, what may not be expected from an assembly being admitted in a colony like Canada? The advocates for such an institution have little considered human nature, its passions, its vices, and the tendency of our actions when ungoverned and unrestrained. The government of the French colonies particularly deserve our attention, and is worthy of our imitation; they take every precaution of a wise and prudent nation, to secure good order and government; a governor is appointed with

with a proper power, and a council established to give him assistance, as well as to guard the rights of the crown. A council of commerce is appointed to judge of, and to adopt plans for the promotion and regulation of trade; the administration of justice is not impeded by unnecessary forms and methods, and every care is taken for the well management of their internal connections, under the most just, prudent, and efficacious laws: without any of those pompous ideas of popular governments, which our countrymen are elated with, the people are happy, they are virtuous and industrious. Happy would it be for this kingdom, were such plans adopted for the government of our colonies, instead of that disorder and anarchy, that almost universally reigns in them; harmony, industry, and virtue would be diffused through every rank of society.

The noble personages who planned this bill, wisely considered these mate-

rial points; and in giving them a government, had the view of making a great and flourishing body of people happy; instead of creating in them a power to destroy their peace and tranquility,

The objections to their being governed by the French laws, are founded upon the same narrow principle and injudicious consideration that pleads for an assembly. Let us take a view of the Canadians before the conquest, and observe how those laws operated under the French administration; let us divest ourselves of national prejudice, and impartially consider those laws that were administered so much to the happiness of the people; and not because they were the laws of an enemy reject them, when they are found by experience to be so well adapted for the government of the people, and so productive of order, harmony, and felicity: Laws however different they may be in form, if they
effect

effect those great ends, the disputing about whether they are French, or Dutch, or English, is but vain cavilling, and a disgrace to a British legislature.

France sensible how necessary the strict attention of the mother country is to the welfare of her colonies, and that their prosperity depends upon their conduct and management at home, does in every particular adopt the most prudent measures both for preserving a regular civil government, and for extending their trade: a most judicious council of trade is appointed, composed of men of the most approved abilities, with a salary to make it worth the attention of gentlemen, and who are under a prohibition not to engage in any trade themselves; the diligence of this board and their deputies to the minutest circumstance of trade, render them as respectable to the planters, as they are serviceable to the preservation of a just and regular traffic. If such an institution,

which

which is founded upon the justest principles of policy, was adopted in our colonies, would be a most beneficial plan for the adjustment of our commerce. The judges of the admiralty quickly decided any dispute that arose, or any fraud committed by the planter or merchant, and so speedily that no inconvenience from unnecessary delays flowed from the institution. Indeed the civil laws that France governed Canada by, were particularly adapted to preserve unity in society, concord in government, and obedience to the state : being simple in their principles, the inhabitants were bred up with an early knowledge of them, and seldom knowingly transgressed against them. One particular which strongly marks the attention of the French government to the welfare of the colonies, and what does them more honour than several boasted liberties in our constitution does to Great-Britain, is their *Code Noir* ; the humanity and justice in this, and other ordinances towards

wards those our fellow creatures, show feelings that reflect the highest honour on that nation.

Now changing those laws that they have been long accustomed to, and giving them a new code, would be attended with so many inconveniences and perplexities, that the general confusion it would occasion is a sufficient reason to reject the proposal; the people having an other rule for their actions so different to their former one, would be continually violating them; and would justly complain of the cruelty of being governed by laws that they were ignorant of, and so contrary to the principles of those they were bred up in: that the blessing intended to be given, would prove an oppressive evil. The trial by jury in civil cases in Canada, causes an endless confusion; the almost general dislike of it throughout the province, sufficiently shews that it is but ill adapted to a people whose ideas of law and civil govern-

government are so confined ; the refined policy of juries can never be so well suited to their limited notions of things. A principle of subordination is natural in the people, and they look upon a decision from their judges with more awe, and more cheerfully pay obedience to their edicts, than to the opinions of their equals, whose too frequent want of unanimity in their determinations, cause a mistrust of partiality, and in general is looked upon by the people as rather an arbitrary institution, than a free one : not only that, persons who are well acquainted with Canada, know the great difficulty there is in procuring people to attend as jurors, that the execution of the laws are so impeded, and cause so great a loss of time to the people, in a climate where it is so precious, that it occasions an almost general murmur ; as well as their being obliged to defray the expences of their attending, an universal disapprobation of them. The introducing of a new mode and form in settling

settling their landed property, which must consequently be from giving them the laws of England, would so annihilate their established customs, and create so many disturbances, that the very idea of it would strike terror in them; it would be at once overturning that security they rested their lives and properties upon, revoke their confidence in government, destroy the bond of union with them, and dissolve those ties of obligations that their ancient customs had cemented. A wise legislature, in giving laws to a kingdom, must prudently guard against directly opposing established customs, whose long existence has rooted as a principle amongst them, and have grown up and been matured with the soil, till they become almost a natural principle in the existence of the people. This bill most judiciously guards against such innovation, and of expunging those laws that neither the evils resulting from them require, or the people themselves request. The most

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essential

essential privileges of Englishmen, and the principal virtues of our constitution, the political and criminal laws of this kingdom, are granted them; if these two invaluable freedoms had not have been allowed them, an opposition founded on reason and justice might have been made to the bill; but these they will possess to their full extent, as British subjects.

The next objection to this bill, is the free toleration that it grants to the catholic religion. Whoever refers to the definitive treaty of peace, will see that the Canadians' free exercise of their religion is stipulated; this act only mentions this particular, which it consequently must do, in giving a government where the difference is so widely disproportioned; it is ridiculous to suppose that this clause is meant to fix the catholic religion as the established one of this kingdom, or to propagate an establishment so subversive of all our privileges, and so opposite to the principles of our constitution;

tution; those dark designs are harboured no where but in the interpreters of a clause which is meant to give stability to the public faith, and to show our intentions of preserving it inviolate. An Englishman, wherever he settles, he carries his religion and the privileges of it with him in any of his majesty's dominions; but Canada is a French ceded colony, inhabited by subjects of the catholic persuasion, to which the protestants are no ways proportioned; it is a conquered kingdom, ceded under the injunction of having the free exercise of their religion and its rights, to which the honor and faith of this nation is solemnly plighted to admit: that however desirable it may be to propagate the protestant religion, the hazard of attempting it by violating a treaty, and possibly at the expence of destroying the lives of thousands of the human species, are neither consistent with its principles, or obedient to its dictates. The errors of the church of Rome hourly lose

ground, the craft of priests and designing men begin to be seen through by the people, and they glow with a warmth to exercise their own right of understanding; the superstition that had so mingled with their doctrine, that it was difficult to perceive any fixed principle in it, is almost banished even in the seat of its nativity and maturation, that gives us room to hope that in time the erroneous principle of its foundation will as imperceptibly give way, as its greatest support was suddenly overthrown; being now greatly stripped of that delusion that blinded the understanding of its followers, its unsound and false principles will more nakedly appear, and its errors make a stronger impression upon the minds of its professors, and in time, work the general effect of all institutions that have not truth for their support: that the danger of the catholic religion becoming universal, even if there was a general toleration of it throughout the world, is but
little

little to be apprehended. The errors of a declining church, claim not the same degree of attention from another state, as a nation that is immersed in error, paganism, and superstition; the granting a free toleration of that, would be wilfully keeping the minds of men in errors of the most dangerous consequence to their future eternal welfare; a zeal to establish truth, and to draw the veil that overspreads and clouds the natural and uncultivated powers of the mind, and unloose the fetters that it rivets in mankind, would be virtuous, and worthy hazarding the chance of war; but even then, prudence must govern the warmth of zeal, lest in endeavouring to remove one evil, it may establish and cause others of equal regret and horror. The progress of truth is slow, though its conversion sure; and persecution, that child of error and superstition, only can be enforced when bigotry has usurped the understanding, and obliterated the feelings of humanity. A mistaken opinion

has arisen on this bill, that his majesty's protestant subjects are deprived of their rights, their power lessened, and their privileges invaded: No, these they possess in as extensive a degree as in any of the colonies; the protection of the protestant religion is so coeval with the very existence of our state, that it will always claim the particular attention of the legislature. The provision allowed in this act for the Romish clergy, is no more than the usual and accustomed dues to that body, established of the laws of England respecting them, and dictated with the greatest prudence; by possessing the benefits of their profession, they are as equally contented as if they were under the jurisdiction of France, or any other Romish power, and keeps them from endeavouring, or even wishing to effect it. Pride and ambition are the characteristic of priests of all nations, and no general character was ever applied more justly than that; then to permit an evil that in time will work its own

own cure, in this case is a security to society, by keeping still those dangerous passions in a set of men who possess such power over the people as the Romish clergy. Indeed I look upon the permitting a free toleration of the catholic religion, and its benefits to their clergy, a most prudent measure, dictated by that foresight and penetration that marks and distinguishes a great statesman, who in considering of the means to adopt in the present state of things, forgets not that they operate on those of the future; it is for the want of that prudent foresight that too frequently creates a difference of opinions in establishing measures to remove a present inconvenience, which without that precaution may create others of equal consequence, and of a more pernicious tendency. That by freely permitting the exercise of those rights, that they hold dearer than their lives, the affections and interest of the people are secured, which should always be an object of attention to Great Britain, as they

they may be a security against the insurgents of the other parts of America ; for in a case of exigency, a force can easily be raised from thence : and though from the efficacious measures lately adopted, relating to the colonies, there is little cause to fear it will be needful, and God forbid it ever should, yet such a precaution is becoming a prudent nation.

The limits to which the jurisdiction of this act is allowed to extend, has been a subject of much altercation ; the principal objections are, that it takes in lands that do not belong to Canada, and that it will prejudice our Labrador fishery. The first objection is well known to be of little consequence by those acquainted with the parts that are included in the act ; the other, on a transient consideration, appears to be an object of importance, which a little attention will fully obviate and prove the contrary. The extensive territory that this act takes in, is chiefly deserts, with a few scattered Indian

Indian settlements, inhabited by traders and very few others; now the necessity of giving these people a government is universally agreed, and by annexing them under the jurisdiction of Quebec, the difficulties that would attend giving them a separate government are obviated; to grant them one different to that of Canada, would be the very means of increasing the settlements in the Illinois, which in time would greatly affect the dependance of the other colonies. There are certain principles of policy that ought to be laid down by a nation respecting the management of their colonies, which should be strictly adhered to, as by the attention to them the security and dependance of the colonies greatly depend; the encouraging, or even admitting settlements in the interior parts of America, is so contrary to those solid maxims of policy that penetrates into the future consequence of things, that it demands the greatest attention to prevent them;

as nothing would prove more fatal to the authority of this kingdom over America than their population. To prevent entirely there being any settlements, is almost an impossibility; that only can be done by giving a power in the governor of Quebec to appoint a person to go there in the proper seasons of the year to inspect into and examine their situation and prevent their increase, which will be the only means to effectually prevent it; an order to forbid them settling there, will be of little effect without seeing that it is obeyed; for this may be considered as a political truth, that whilst the possession of America continues to be an object of attention to this kingdom, that will be the best auxiliary to preserve it.

The objection that our fishery would be affected from its great consequence to this nation, both in point of its being the great nursery of our seamen as well

as

as a material branch of our commerce, seems to carry some appearance of weight, which when we attentively consider will appear to be false. The great difference of the Labrador fishery and that of Newfoundland requires so different a policy to govern them, that even their comparison is no ways just; the nature of one requiring all the silence and caution of a sedentary fishery, while the other is carried on with the greatest noise, confusion, and bustle, that the policy that governs Newfoundland would be the most effectual means of destroying the other; the necessity then of the fishermen having a property on the coast arises from the very nature of the fishery—and the annexing them under the government of Quebec must be of consequence, without indeed they were permitted to have one of their own; that so far from being any ways an infringement or prejudice to our fishery, it must be

looked upon as a judicious regulation arising from a thorough acquaintance of the place and its situation, and a perfect knowledge of the manner of carrying on the trade of those parts. A constant care will ever be taken by a prudent minister to guard against any innovation on the great school of our seamen, who are the bulwark of this kingdom, and the fears on that head from this act are groundless; our fishery is not restricted, it is only regulated.

Upon the whole, from a mature consideration of every clause in this act, and due attention to its operation, it cannot but be agreed that it is framed upon the strictest principles of justice and humanity: in every point of view we find it adapted to the genius of the people, and planned for promoting their happiness; the noble persons who framed the bill did not lose sight of the evils that would have resulted from overturn-
ing,

ing long established customs, that with them are rendered as sacred from their immemorial usage, as the common law with us, and carefully observed the impressions they have made on their minds, and felt the pain it must give them to annihilate customs that had received the venerable palm of time ; and where an addition was wanting in their constitution to make them happier, gave them the two great excellencies of ours to perfect their felicity, and thus completed the first principle that ought to be attended to in giving a government to a conquered kingdom,—“ adopting “ one agreeable to the genius of the “ people.”—There is in human nature a partial principle to one’s own profession, which however laudable, more especially when founded on truth, must not in political transactions carry us too far ; a guard against this strong prepossession, did not escape the judicious authors, and though actuated by an earnest

earnest desire of propagating the protestant establishment, did not forget the fatal consequence of violating a treaty and forfeiting the public faith.—That the government under the direction of a governor and council can be executed with the fewest inconveniences and greater dispatch cannot be denied, and is properly adapted to prevent those inconsistencies that are inseparable from some favourable institutions. The admission of persons of the catholic persuasion in the council is judiciously planned to cement the union between us and France, as also the catholics being under no restriction on account of their religion will secure their interest to Great-Britain on any occasion, and facilitate the execution of those laws of the Canadians, who from their being bred up in them, must be supposed to have a more perfect knowledge than those who have them to study.

It is become too general to talk loud of oppression and slavery, and maliciously to interpret every action of a minister to that end. These harsh expressions, it is to be hoped, arise more from heat of passion than from serious reflection, and are too fallaciously founded to attempt to be seriously refuted. No man, but those of the most depraved principles and lost to every tender feeling, would even wish, much more endeavour, to enslave one human being; yet the same humanity that would be shook with terror at the idea, would strongly urge the necessity of creating laws to prevent it, which when our actions are left without a rule of conduct, most certainly tends to the worst of all slavery; so true is that axiom of Mr. Locke, "that where there is no law, there can be no freedom." But the enemies to this bill say, Give them a government more after the model of your own! give them all the liberties of
English-

Englishmen, for they are now our subjects ! prohibit the catholic religion, and not countenance popery and superstition ! This is the language of the opposition, which arises only from the spirit of it. When they plead for a more democratic government, they overlook the confusion, the inequality, the inconsistency that is natural to the institution, and which, in the most civilized state, has overcome all bounds of order and regularity, and never has been found to be adapted either to preserve the dignity of a state, or promotive of the peoples happiness ; it levels too much the ranks of society to preserve the felicity of the community. The consequence that would result from giving one to the Canadians, we may form some idea from our own constitution as well as the democracies of the ancients ; even in our own, where the three settled forms of government are blended in the constitution with the utmost perfection of hu-

man wisdom, so as each to be a check upon the other, yet the too frequent want of unanimity and concord in that great council of the nation, betrays an imbecility which is consistent with its nature; but a false glare of public spirit dazzles the eyes of the people, that they too often applaud the men and forget their measures; true public spirit does not possess that virulence that our patriots annex to their profession of it; it is a plan of conduct upon the principles of virtue and justice, and consists in a conscientious discharge of our duty, and the uprightness of our conduct, regardless of the applause of the populace, who are carried away by a glare of delusive professions and false appearances. By giving the Canadians an assembly, we give them a power to oppose our own, we put in their hands a sword, that like the Bostonians they in time may brandish and put us at defiance; yet neither the evils that have constantly flowed in all ages from

an institution that has always proved fallacious, nor those we experience at the present, are sufficient to remove the prejudices in its favour.—The public faith was to be as little regarded as those considerations! yet were a war to ensue in consequence of violating it, it would then be said, Why did you forfeit the national faith, and plunge the kingdom into all the distresses of a war, when you had solemnly plighted your word! It would then be said, The minister was carried away by false appearances and short-sighted prudence, and never considered the consequences that might naturally be expected from it! that he thought France was as indolent as themselves, and that he never thought a nation felt an insult on the violation of a treaty. The strain would be high for impeachment, and such like; for the language of opposition is too frequently as regardless of scurrility as observant of truth, and in this case reprehension would be just. But to all this
a minister

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a minister has nothing to oppose, but a conscientious discharge of his duty and the rectitude of his actions, which will never fail to gain the approbation and confidence of our discerning sovereign, which only can be able to support him.

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